

1 AN ACT relating to midwifery and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 7 of this Act, unless the context indicates otherwise:*

6 *(1) "Board" means the Kentucky Board of Midwifery;*

7 *(2) "Certified professional midwife" means a person who has obtained certification*
8 *by the North American Registry of Midwives, or its successor organization;*

9 *(3) "Client" means a person, fetus, or newborn under the care of a midwife;*

10 *(4) "International Confederation of Midwives" means a nongovernmental*
11 *organization representing midwives and midwifery associations that authors*
12 *international standards for education and essential competencies for the practice*
13 *of midwifery;*

14 *(5) "Licensed midwife" means a person licensed by the board under Section 4 of this*
15 *Act to practice midwifery;*

16 *(6) "Midwifery" means providing primary maternity care to clients, including*
17 *consultation with or referral to medical and other health care providers when*
18 *indicated by client health care needs, but does not include:*

19 *(a) The practice of medicine or osteopathy as defined in KRS 311.550; or*

20 *(b) The practice of nursing, registered nursing, advanced practice registered*
21 *nursing, or licensed practical nursing as defined in KRS 314.011, including*
22 *advanced practice registered nursing with a designation as a certified nurse*
23 *midwife;*

24 *(7) "Midwifery Bridge Certificate" means a certificate issued by the North American*
25 *Registry of Midwives that documents completion of accredited continuing*
26 *education for certified professional midwives based on identified areas to address*
27 *education in emergency skills and other competencies set by the International*

1 Confederation of Midwives, or its successor credential;

2 (8) "Midwifery Education Accreditation Council" means the United States
3 Department of Education-recognized commission that provides accreditation for
4 programs and institutions that meet the Midwives Alliance of North America core
5 competencies, the International Confederation of Midwives competencies, and
6 the North American Registry of Midwives skills and standards for basic
7 midwifery practice, or those of its successor organization;

8 (9) "Midwifery Model of Care" means:

9 (a) Monitoring of the physical, psychological, and social well-being of a client
10 throughout the childbearing cycle;

11 (b) Providing a client with individualized education, counseling, prenatal care,
12 continuous hands-on assistance during labor and delivery, and postpartum
13 support;

14 (c) Minimizing technological interventions; and

15 (d) Identifying and referring a client who requires obstetrical attention;

16 (10) "Midwives Alliance of North America" means the national midwifery
17 organization which articulates core competencies for midwives;

18 (11) "Newborn" means an infant from birth through the first six (6) weeks of life;

19 (12) "Normal" means circumstances under which a midwife has determined that a
20 client is at a low risk of developing complications with a pregnancy, labor,
21 delivery, postpartum period, or newborn period as evidenced by documentation of
22 adequate prenatal care and the anticipation of an uncomplicated labor and birth;

23 (13) "North American Registry of Midwives" means the organization that sets
24 national standards for the certification of professional midwives, or its successor
25 organization;

26 (14) "Postpartum period" means the first six (6) weeks after a client has given birth;
27 and

1 (15) "United States Midwifery Education, Regulation, and Association" means the
2 national coalition of representatives of national midwifery associations,
3 credentialing bodies, and education accreditation agencies, or its successor
4 organization.

5 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) The Kentucky Board of Midwifery is established under the Department of
8 Professional Licensing in the Public Protection Cabinet and shall consist of nine
9 (9) members appointed by the Governor as follows:

10 (a) Four (4) members who each have at least three (3) years of experience in
11 the practice of midwifery and are eligible to become licensed pursuant to
12 Section 4 of this Act, from a list of six (6) names submitted to the Governor
13 by the Kentucky Home Birth Coalition or its successor organization.
14 Beginning January 1, 2022, these four (4) members shall also provide proof
15 that they have become licensed midwives;

16 (b) One (1) member who is a certified nurse midwife licensed by the Kentucky
17 Board of Nursing and has had professional experience consulting for and
18 collaborating with certified professional midwives, from a list of (3) three
19 names submitted to the Governor by the Kentucky Coalition of Nurse
20 Practitioners and Nurse Midwives;

21 (c) One (1) member who is an obstetrician licensed by the Kentucky Board of
22 Medical Licensure and has had professional experience consulting for and
23 collaborating with certified professional midwives, from a list of three (3)
24 names submitted to the Governor by the Kentucky Section of the American
25 Congress of Obstetricians and Gynecologists;

26 (d) Two (2) members who are either a physician licensed by the Kentucky
27 Board of Medical Licensure or an advance practice registered nurse

1 licensed by the Kentucky Board of Nursing and have had professional
2 experience consulting for and collaborating with certified professional
3 midwives, from a list of three (3) names submitted to the Governor by the
4 Kentucky Medical Association and a list of three (3) names submitted to the
5 Governor by the Kentucky Coalition of Nurse Practitioners and Nurse
6 Midwives; and

7 (e) One (1) member of the general public who has received midwifery care in
8 an out-of-hospital setting, from a list of two (2) names submitted by the
9 Kentucky Home Birth Coalition or its successor organization.

10 (2) (a) The Governor shall make appointments to the board by August 1, 2017. The
11 two (2) members appointed pursuant to subsection (1)(d) of this section
12 shall serve on the board only for the initial five (5) years, after which they
13 shall be removed and the board shall be composed of seven (7) members.
14 The initial terms of the remaining members shall be staggered as follows to
15 provide continuity:

16 1. One (1) member for a term of one (1) year;

17 2. One (1) member for a term of two (2) years;

18 3. Two (2) members for a term of three (3) years; and

19 4. Three (3) members for a term of four (4) years.

20 These terms shall expire, in each instance, on June 30 of the designated
21 year, and each member shall serve until a successor is appointed and
22 accepts appointment.

23 (b) Upon the expiration of the initial staggered terms, members shall be
24 appointed by the Governor for terms of four (4) years, and shall serve until
25 successors are appointed and accept their appointments. Members shall be
26 eligible for reappointment. Vacancies in the membership of the board shall
27 be filled in the same manner as the original appointments.

1 (c) In the event of the death, resignation, or removal of any board member
2 before the expiration of the term to which he or she is appointed, the
3 vacancy shall be filled for the unexpired term in the same manner as the
4 original appointment.

5 (3) The board shall, within thirty (30) days after all appointments are made, hold a
6 meeting and elect a chairperson. The board shall meet at least quarterly, and may
7 hold additional meetings at the call of the chairperson or at the written request of
8 a majority of the members of the board.

9 (4) (a) A majority of the board shall constitute a quorum.

10 (b) During the initial five (5) years when there are nine (9) members of the
11 board, a supermajority of six (6) members shall be required to approve
12 administrative regulations relating to subsection (7)(a) to (e) of this section.
13 For all other items under consideration, the vote of a majority of members
14 present at a meeting wherein a quorum is present shall determine the action
15 of the board.

16 (c) After the initial five (5) years when there are seven (7) members of the
17 board, a supermajority of five (5) members shall be required to approve
18 administrative regulations relating to subsection (7)(a) to (e) of this section.
19 For all other items under consideration, the vote of a majority of members
20 present at a meeting wherein a quorum is present shall determine the action
21 of the board.

22 (5) The board shall employ a qualified person to serve as executive director to the
23 board, and shall fix the compensation and define the duties of the executive
24 director. It may employ other persons as necessary to carry on the work of the
25 board.

26 (6) The board may:

27 (a) Receive applications for licensure, determine the qualifications of persons

- 1 applying for licensure, and provide licenses to applicants qualified under
2 Sections 1 to 7 of this Act;
- 3 (b) Renew, suspend, revoke, and reinstate licenses;
- 4 (c) Establish and collect fees for examination of applicants for licensure and
5 for license renewal that shall not exceed five hundred dollars (\$500) for a
6 three (3) year period;
- 7 (d) Require a criminal background investigation of an applicant or licensed
8 midwife by means of a fingerprint check by the Department of Kentucky
9 State Police and Federal Bureau of Investigation;
- 10 (e) Investigate complaints against licensed midwives;
- 11 (f) Undertake, when appropriate, disciplinary proceedings and disciplinary
12 action against licensed midwives; and
- 13 (g) Promulgate administrative regulations in accordance with KRS Chapter
14 13A, which are necessary to administer Sections 1 to 7 of this Act.
- 15 (7) The board shall consider any data, views, questions, and arguments submitted by
16 the Kentucky Board of Medical Licensure in promulgating administrative
17 regulations related to:
- 18 (a) Disclosure documentation pursuant to subsection (3) of Section 3 of this
19 Act;
- 20 (b) Standardization of forms pursuant to subsection (4) of Section 3 of this Act;
- 21 (c) Findings pursuant to subsection (6) of Section 3 of this Act;
- 22 (d) Medication formularies pursuant to subsection (8) of Section 3 of this Act;
23 and
- 24 (e) Conditions specified in subsection (3) of Section 4 of this Act.
- 25 (8) The members of the board shall serve without compensation, but may be
26 reimbursed for all actual and necessary expenses incurred while discharging
27 their official duties.

1 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
2 READ AS FOLLOWS:

3 *The administrative regulations promulgated by the board pursuant to Section 2 of this*
4 *Act shall:*

5 *(1) Be consistent with:*

6 *(a) The Midwifery Model of Care;*

7 *(b) The United States Midwifery Education, Regulation, and Association*
8 *statement on the licensure of certified professional midwives; and*

9 *(c) The United States Midwifery Education, Regulation, and Association*
10 *Principles for Model U.S. Midwifery Legislation and Regulation;*

11 *(2) Establish processes for licensure application and renewal, including fees;*

12 *(3) Establish a process to document the disclosure required under Section 5 of this*
13 *Act;*

14 *(4) Establish standardized forms to document the informed consent requirements*
15 *under Section 5 of this Act;*

16 *(5) Require a licensed midwife to report annually to the board, in a form specified by*
17 *the board, the following information regarding cases assisted by the licensed*
18 *midwife for which the intended place of birth at the onset of care was at home:*

19 *(a) The total number of clients served as primary maternity caregiver at the*
20 *onset of care;*

21 *(b) The number of live births attended as primary maternity caregiver;*

22 *(c) The number, reason for, and outcome of each transport of a client in the*
23 *antepartum, intrapartum, or immediate postpartum periods;*

24 *(d) The number of cases of fetal demise, infant deaths, and maternal deaths*
25 *attended as primary maternity caregiver at the discovery of the demise or*
26 *death;*

27 *(e) A brief description of any complications resulting in the morbidity or*

- 1 mortality of a client or a neonate; and
2 (f) Any other information required by administrative regulations promulgated
3 by the board;
- 4 (6) Delineate findings that preclude a client from being classified as having a normal
5 pregnancy, labor, delivery, postpartum period, or newborn period, which shall
6 form the basis for any requirements or restrictions imposed by the board on the
7 practice of midwifery when providing care to a client whose condition is not
8 classified as normal;
- 9 (7) Permit a licensed midwife to obtain equipment and supplies, order and obtain
10 screening tests including ultrasound scanning that are indicated for the safe
11 practice of midwifery, and receive verbal and written reports of the results of
12 those tests;
- 13 (8) Permit a licensed midwife to obtain and administer during the practice of
14 midwifery medications from a formulary established by the board that is limited
15 to only those medications that are indicated for the safe conduct of pregnancy,
16 labor and birth, and care of a client, and that the licensed midwife is
17 educationally prepared to administer and monitor. This shall not be interpreted to
18 bestow prescriptive authority. The formulary shall not include Schedule II, III, or
19 IV drugs as defined in the Controlled Substances Act, 21 U.S.C. secs. 812 et seq.;
- 20 (9) Establish the duties a licensed midwife shall perform in the case of an emergency
21 transport to a hospital, which shall conform to nationally recognized guidelines
22 on safe transfers;
- 23 (10) Require a licensed midwife to complete birth certificate data as required in KRS
24 213.046 and 213.096;
- 25 (11) Require a licensed midwife to administer newborn screenings pursuant to KRS
26 214.155 or refer to practitioners who can perform required screenings;
- 27 (12) Require a licensed midwife to refer a newborn with any abnormal findings to a

- 1 pediatric healthcare practitioner;
- 2 (13) Permit a licensed midwife to assess and monitor normal newborn development
- 3 through six (6) weeks of life for adequate growth, appearance, and general
- 4 wellness as evidenced through documentation by the licensed midwife; and
- 5 (14) Not:
- 6 (a) Require a licensed midwife to have a nursing degree or diploma;
- 7 (b) Require a licensed midwife to practice under the supervision of another
- 8 healthcare provider;
- 9 (c) Limit the location where a licensed midwife may practice midwifery; or
- 10 (d) Allow a licensed midwife to prescribe medication, use forceps or vacuum
- 11 extractor, or obtain or administer narcotics.

12 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO

13 READ AS FOLLOWS:

- 14 (1) The scope of practice for a licensed midwife shall be consistent with:
- 15 (a) The International Confederation of Midwives Essential Competencies for
- 16 Basic Midwifery Practice;
- 17 (b) The North American Registry of Midwives Comprehensive Skills,
- 18 Knowledge, and Abilities Essential for Competent Midwifery Practice; and
- 19 (c) The Midwives Alliance of North America Core Competencies for Basic
- 20 Midwifery Practice.
- 21 (2) Prior to the promulgation of related administrative regulations:
- 22 (a) A licensed midwife shall not provide services to a client when there is
- 23 reasonable likelihood that any of the following conditions exist:
- 24 1. Multifetal gestation;
- 25 2. Breech presentation after thirty-eight (38) weeks gestation; or
- 26 3. More than two (2) previous cesarean sections.
- 27 (b) A licensed midwife may only provide services to a client with one (1) or two

- 1 (2) previous cesarean sections when:
- 2 1. There is documented evidence that all previous cesarean section
- 3 incisions are low and transverse; and
- 4 2. There is confirmation by ultrasound that there is no placental
- 5 implantation over the uterine scar.
- 6 (3) Notwithstanding subsection (2) of this section, the board, through approval by a
- 7 supermajority as defined in Section 2 of this Act, may promulgate administrative
- 8 regulations relating to the provision of services by a licensed midwife in cases in
- 9 which there is a reasonable likelihood that any of the following conditions exist:
- 10 (a) Multifetal gestation;
- 11 (b) Breech presentation; or
- 12 (c) Previous cesarean section.
- 13 Upon the effective date of these promulgated administrative regulations, the
- 14 provisions of subsection (2) of this section shall no longer be given effect.
- 15 (4) The board shall grant or renew a license for a term of three (3) years that shall
- 16 expire on the birthday of the licensed midwife unless renewed, to any person
- 17 who:
- 18 (a) Provides documentation that the North American Registry of Midwives
- 19 certification or recertification requirements have been met;
- 20 (b) Completes any additional board-approved educational requirements,
- 21 including:
- 22 1. A one (1) time training course within three (3) years of initial
- 23 licensure of at least one and one-half (1.5) hours covering the
- 24 recognition and prevention of pediatric abusive head trauma as
- 25 defined in KRS 620.020; and
- 26 2. Continuing education requirements for pharmacology;
- 27 (c) Files an application for licensure or renewal approved by the board; and

1 (d) Pays the required fees.

2 (5) All applicants for licensure as a midwife shall be required to have obtained
3 certification as a certified professional midwife and:

4 (a) Beginning January 1, 2020, obtain certification by completing an education
5 program or pathway accredited by the Midwifery Education Accreditation
6 Council;

7 (b) If certification was obtained prior to January 1, 2020, from an education
8 program or pathway not accredited by the Midwifery Education
9 Accreditation Council, obtain the Midwifery Bridge Certificate issued by the
10 North American Registry of Midwives; or

11 (c) If licensure has been maintained in a state that does not require an
12 education program or pathway accredited by the Midwifery Education
13 Accreditation Council, obtain the Midwifery Bridge Certificate regardless of
14 the date of certification.

15 (6) Beginning January 1, 2022, unless a person is licensed in accordance with
16 Sections 1 to 7 of this act, the person shall not:

17 (a) Practice, offer to practice, or profess to be authorized to practice midwifery;

18 (b) Hold oneself out to the public as a midwife licensed in Kentucky;

19 (c) Use the words "licensed midwife", the letters "L.M.", or other words or
20 letters to indicate that the person using the words or letters is a licensed
21 midwife; or

22 (d) Misrepresent to the public that the person is authorized to practice
23 midwifery in Kentucky.

24 This subsection is not intended to prohibit persons holding national certifications
25 as midwives from identifying themselves as holding such certifications, so long as
26 those persons are not practicing midwifery or professing to be authorized to
27 practice midwifery in Kentucky.

1 (7) Sections 1 to 7 of this Act do not apply to any of the following:

2 (a) A certified nurse midwife licensed by the Kentucky Board of Nursing,
3 except that a certified nurse midwife who is also a licensed midwife shall be
4 subject to administrative regulations relating to the practice of certified
5 nurse midwifery promulgated by the Kentucky Board of Nursing and the
6 provisions of Sections 1 to 7 of this Act;

7 (b) A student midwife in training under the direct supervision of a licensed
8 midwife, as required by the North American Registry of Midwives;

9 (c) A traditional birth attendant practicing midwifery without a license if the
10 traditional birth attendant has cultural or religious traditions that have
11 historically included the attendance of traditional birth attendants at birth,
12 and that the birth attendant serves only women and families in that distinct
13 cultural or religious group;

14 (d) A person rendering aid in an emergency if no fee for the service is
15 contemplated, charged, or received;

16 (e) A person administering care to a member of the person's family; or

17 (f) A practicing professional who is licensed, certified, or registered under
18 other laws of this state, and who is performing services within the
19 professional's authorized scope of practice.

20 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) Before initiating care, a licensed midwife shall obtain a signed informed consent
23 agreement from each adult client, using a form prescribed by the board,
24 acknowledging receipt of the following:

25 (a) A description of the licensed midwife's education and credentials;

26 (b) Instructions for obtaining a copy of the administrative regulations
27 promulgated by the board pursuant to Section 2 of this Act;

- 1 (c) Instructions for obtaining a copy of the North American Registry of
2 Midwives certification requirements;
3 (d) Instructions for filing complaints with the board;
4 (e) A written protocol for emergencies, including hospital transport;
5 (f) A description of the procedures, benefits, and risks of birth in the client's
6 chosen environment, primarily those conditions that may arise during
7 delivery;
8 (g) Disclosure of professional liability insurance held or not held by the
9 licensed midwife; and
10 (h) Any other information required by the board.
11 (2) All licensed midwives shall maintain a record of each signed informed consent
12 agreement for a minimum of seven (7) years after the last day of care.
13 (3) A licensed midwife shall be required to disclose to a client, and document
14 disclosure using a board-approved form, options for consultation and referral to
15 a higher level of care if the midwife determines that there is a reasonable
16 likelihood that any condition exists that is not considered normal, as established
17 pursuant to subsection (6) of Section 3 of this Act.
18 (4) A client shall maintain the right to decline any consultation or referral as
19 disclosed by a licensed midwife under this section.

20 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
21 READ AS FOLLOWS:

- 22 (1) The board may reprimand, deny, limit, revoke, probate, or suspend any license to
23 practice midwifery issued by the board or applied for in accordance with Sections
24 1 to 7 of this Act or the privilege to practice as a licensed midwife recognized by
25 the board in accordance with Sections 1 to 7 of this Act, or otherwise discipline a
26 licensee, or deny admission to the licensure examination, or require evidence of
27 evaluation and therapy upon proof that the person:

- 1 (a) Is guilty of fraud or deceit in procuring or attempting to procure a license,
2 credential, or privilege to practice midwifery;
- 3 (b) Has been convicted of any felony, or a misdemeanor involving drugs,
4 alcohol, fraud, deceit, falsification of records, a breach of trust, physical
5 harm or endangerment to others, or dishonesty, under the laws of any state
6 or of the United States. The record of conviction or a copy thereof, certified
7 by the clerk of the court or by the judge who presided over the conviction,
8 shall be conclusive evidence;
- 9 (c) Has been convicted of a misdemeanor offense under KRS Chapter 510
10 involving a client, or a felony offense under KRS Chapter 510,
11 530.064(1)(a), or 531.310, or has been found by the board to have had
12 sexual contact as defined in KRS 510.010(7) with a client while the client
13 was under the care of the licensed midwife;
- 14 (d) Has negligently or willfully acted in a manner inconsistent with the practice
15 of midwifery;
- 16 (e) Is unfit or incompetent to practice midwifery by reason of negligence or
17 other causes, including but not limited to being unable to practice
18 midwifery with reasonable skill or safety;
- 19 (f) Abuses use of controlled substances, prescription medications, illegal
20 substances, or alcohol;
- 21 (g) Has misused or misappropriated any drugs placed in the custody of the
22 licensed midwife for administration, or for use of others;
- 23 (h) Has falsified or in a negligent manner made incorrect entries or failed to
24 make essential entries on essential records;
- 25 (i) Has a license, credential, or privilege to practice as a midwife denied,
26 limited, suspended, probated, revoked, or otherwise disciplined in another
27 jurisdiction on grounds sufficient to cause a license, credential, or privilege

1 to be denied, limited, suspended, probated, revoked, or otherwise disciplined
2 in this Commonwealth, including action by another jurisdiction for failure
3 to repay a student loan;

4 (j) Has violated any of the provisions of Sections 1 to 7 of this Act;

5 (k) Has violated any lawful order or directive previously entered by the board;

6 (l) Has violated any administrative regulation promulgated by the board;

7 (m) Has been listed on the nurse aide abuse registry with a substantiated finding
8 of abuse, neglect, or misappropriation of property; or

9 (n) Has violated the confidentiality of information or knowledge concerning
10 any client, except as authorized or required by law.

11 (2) Any person under the jurisdiction of the board shall, within ninety (90) days of
12 entry of an order or judgment, notify the board in writing of any misdemeanor or
13 felony criminal conviction, except traffic-related misdemeanors other than
14 operating a motor vehicle under the influence of drugs or alcohol, in this or any
15 other jurisdiction. That person shall submit a certified copy of the order and a
16 letter of explanation.

17 (3) All hearings shall be conducted in accordance with KRS Chapter 13B. A
18 suspended or revoked license, privilege, or credential may be reinstated at the
19 discretion of the board, and in accordance with administrative regulations
20 promulgated by the board.

21 (4) A final order of the board shall be by majority vote thereof.

22 (5) Any person adversely affected by any final order of the board may obtain a review
23 thereof by filing a written petition for review with the Circuit Court of the county
24 in which the board's offices are located in accordance with KRS Chapter 13B.

25 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) There is hereby established in the State Treasury the Kentucky Board of

1 Midwifery trust and agency fund. The fund shall be administered by the board for
2 the purposes of Sections 1 to 7 of this Act, including but not limited to:

3 (a) Reimbursement of board members for actual and necessary expenses
4 incurred in the performance of their official duties;

5 (b) Compensation of all employees of the board; and

6 (c) Payment of all other operational expenses incurred by the board in
7 executing its duties.

8 (2) All fees, charges, and other moneys collected or received by the board shall be
9 deposited to the credit of this fund.

10 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of
11 the fiscal year shall not lapse but shall be carried forward into the succeeding
12 fiscal year. Any interest earnings of the fund shall become a part of the fund and
13 shall not lapse.

14 ➔Section 8. KRS 211.180 is amended to read as follows:

15 (1) The cabinet shall enforce the administrative regulations promulgated by the
16 secretary of the Cabinet for Health and Family Services for the regulation and
17 control of the matters set out below and shall formulate, promote, establish, and
18 execute policies, plans, and programs relating to all matters of public health,
19 including but not limited to the following matters:

20 (a) Detection, prevention, and control of communicable diseases, chronic and
21 degenerative diseases, dental diseases and abnormalities, occupational
22 diseases and health hazards peculiar to industry, home accidents and health
23 hazards, animal diseases which are transmissible to man, and other diseases
24 and health hazards that may be controlled;

25 (b) The adoption of regulations specifying the information required in and a
26 minimum time period for reporting a sexually transmitted disease. In adopting
27 the regulations the cabinet shall consider the need for information, protection

1 for the privacy and confidentiality of the patient, and the practical ability of
2 persons and laboratories to report in a reasonable fashion. The cabinet shall
3 require reporting of physician-diagnosed cases of acquired immunodeficiency
4 syndrome based upon diagnostic criteria from the Centers for Disease Control
5 and Prevention of the United States Public Health Service. No later than
6 October 1, 2004, the cabinet shall require reporting of cases of human
7 immunodeficiency virus infection by reporting of the name and other relevant
8 data as requested by the Centers for Disease Control and Prevention and as
9 further specified in KRS 214.645. Nothing in this section shall be construed to
10 prohibit the cabinet from identifying infected patients when and if an effective
11 cure for human immunodeficiency virus infection or any immunosuppression
12 caused by human immunodeficiency virus is found or a treatment which
13 would render a person noninfectious is found, for the purposes of offering or
14 making the cure or treatment known to the patient;

15 (c) The control of insects, rodents, and other vectors of disease; the safe handling
16 of food and food products; the safety of cosmetics; the control of narcotics,
17 barbiturates, and other drugs as provided by law; the sanitation of schools,
18 industrial establishments, and other public and semipublic buildings; the
19 sanitation of state and county fairs and other similar public gatherings; the
20 sanitation of public and semipublic recreational areas; the sanitation of public
21 rest rooms, trailer courts, hotels, tourist courts, and other establishments
22 furnishing public sleeping accommodations; the review, approval, or
23 disapproval of plans for construction, modification, or extension of equipment
24 related to food-handling in food-handling establishments; the licensure of
25 hospitals; and the control of such other factors, not assigned by law to another
26 agency, as may be necessary to insure a safe and sanitary environment;

27 (d) The construction, installation, and alteration of any on-site sewage disposal

1 system, except for a system with a surface discharge;

2 (e) Protection and improvement of the health of expectant mothers, infants,
3 preschool, and school-age children; and

4 (f) ~~[The practice of midwifery, including the issuance of permits to and~~
5 ~~supervision of women who practice midwifery; and~~

6 (g) ~~]~~Protection and improvement of the health of the people through better
7 nutrition.

8 (2) The secretary shall have authority to establish by regulation a schedule of
9 reasonable fees, not to exceed twenty dollars (\$20) per inspector hour plus travel
10 costs pursuant to state regulations for travel reimbursement, to cover the costs of
11 inspections of manufacturers, retailers, and distributors of consumer products as
12 defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.;
13 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of
14 determining compliance with the provisions of this section and the regulations
15 adopted by the secretary pursuant thereto. Fees collected by the secretary shall be
16 deposited in the State Treasury and credited to a revolving fund account for the
17 purpose of carrying out the provisions of this section. The balance of the account
18 shall lapse to the general fund at the end of each biennium.

19 (3) Any administrative hearing conducted under authority of this section shall be
20 conducted in accordance with KRS Chapter 13B.

21 ➔Section 9. KRS 311.550 is amended to read as follows:

22 As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

23 (1) "Board" means the State Board of Medical Licensure;

24 (2) "President" means the president of the State Board of Medical Licensure;

25 (3) "Secretary" means the secretary of the State Board of Medical Licensure;

26 (4) "Executive director" means the executive director of the State Board of Medical
27 Licensure or any assistant executive directors appointed by the board;

- 1 (5) "General counsel" means the general counsel of the State Board of Medical
2 Licensure or any assistant general counsel appointed by the board;
- 3 (6) "Regular license" means a license to practice medicine or osteopathy at any place in
4 this state;
- 5 (7) "Limited license" means a license to practice medicine or osteopathy in a specific
6 institution or locale to the extent indicated in the license;
- 7 (8) "Temporary permit" means a permit issued to a person who has applied for a regular
8 license, and who appears from verifiable information in the application to the
9 executive director to be qualified and eligible therefor;
- 10 (9) "Emergency permit" means a permit issued to a physician currently licensed in
11 another state, authorizing the physician to practice in this state for the duration of a
12 specific medical emergency, not to exceed thirty (30) days;
- 13 (10) Except as provided in subsection (11) of this section, the "practice of medicine or
14 osteopathy" means the diagnosis, treatment, or correction of any and all human
15 conditions, ailments, diseases, injuries, or infirmities by any and all means,
16 methods, devices, or instrumentalities;
- 17 (11) The "practice of medicine or osteopathy" does not include the practice of Christian
18 Science, the domestic administration of family remedies, the rendering of first aid
19 or medical assistance in an emergency in the absence of a person licensed to
20 practice medicine or osteopathy under the provisions of this chapter, the use of
21 automatic external defibrillators in accordance with the provisions of KRS 311.665
22 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a
23 midlevel health care practitioner as defined in KRS 216.900, the practice of
24 dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS
25 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015,
26 the practice as a nurse as defined in KRS 314.011, the practice of physical therapy
27 as defined in KRS 327.010, the performance of duties for which they have been

1 trained by paramedics licensed under KRS Chapter 311A, first responders, or
2 emergency medical technicians certified under Chapter 311A, the practice of
3 pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs,
4 nostrums, patented or proprietary medicines, trusses, supports, spectacles,
5 eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended,
6 advertised, or represented as being for the treatment, correction, cure, or relief of
7 any human ailment, disease, injury, infirmity, or condition, in regular mercantile
8 establishments, or the practice of midwifery~~[by women. KRS 311.530 to 311.620~~
9 ~~shall not be construed as repealing the authority conferred on the Cabinet for Health~~
10 ~~and Family Services by KRS Chapter 211 to provide for the instruction,~~
11 ~~examination, licensing, and registration of all midwives through county health~~
12 ~~officers];~~

13 (12) "Physician" means a doctor of medicine or a doctor of osteopathy;

14 (13) "Grievance" means any allegation in whatever form alleging misconduct by a
15 physician;

16 (14) "Charge" means a specific allegation alleging a violation of a specified provision of
17 this chapter;

18 (15) "Complaint" means a formal administrative pleading that sets forth charges against
19 a physician and commences a formal disciplinary proceeding;

20 (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those
21 crimes which have dishonesty as a fundamental and necessary element, including
22 but not limited to crimes involving theft, embezzlement, false swearing, perjury,
23 fraud, or misrepresentation;

24 (17) "Telehealth" means the use of interactive audio, video, or other electronic media to
25 deliver health care. It includes the use of electronic media for diagnosis,
26 consultation, treatment, transfer of medical data, and medical education;

27 (18) "Order" means a direction of the board or its panels made or entered in writing that

- 1 determines some point or directs some step in the proceeding and is not included in
2 the final order;
- 3 (19) "Agreed order" means a written document that includes but is not limited to
4 stipulations of fact or stipulated conclusions of law that finally resolves a grievance,
5 a complaint, or a show cause order issued informally without expectation of further
6 formal proceedings in accordance with KRS 311.591(6);
- 7 (20) "Final order" means an order issued by the hearing panel that imposes one (1) or
8 more disciplinary sanctions authorized by this chapter;
- 9 (21) "Letter of agreement" means a written document that informally resolves a
10 grievance, a complaint, or a show cause order and is confidential in accordance with
11 KRS 311.619;
- 12 (22) "Letter of concern" means an advisory letter to notify a physician that, although
13 there is insufficient evidence to support disciplinary action, the board believes the
14 physician should modify or eliminate certain practices and that the continuation of
15 those practices may result in action against the physician's license;
- 16 (23) "Motion to revoke probation" means a pleading filed by the board alleging that the
17 licensee has violated a term or condition of probation and that fixes a date and time
18 for a revocation hearing;
- 19 (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter
20 13B to determine whether the licensee has violated a term or condition of probation;
- 21 (25) "Chronic or persistent alcoholic" means an individual who is suffering from a
22 medically diagnosable disease characterized by chronic, habitual, or periodic
23 consumption of alcoholic beverages resulting in the interference with the
24 individual's social or economic functions in the community or the loss of powers of
25 self-control regarding the use of alcoholic beverages;
- 26 (26) "Addicted to a controlled substance" means an individual who is suffering from a
27 medically diagnosable disease characterized by chronic, habitual, or periodic use of

1 any narcotic drug or controlled substance resulting in the interference with the
2 individual's social or economic functions in the community or the loss of powers of
3 self-control regarding the use of any narcotic drug or controlled substance;

4 (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the
5 active practice of medicine within this Commonwealth who has admitted to
6 violating any provision of KRS 311.595 that permits the licensee to continue the
7 practice of medicine until the board issues a final order on the registration or
8 reregistration of the licensee;

9 (28) "Fellowship training license" means a license to practice medicine or osteopathy in
10 a fellowship training program as specified by the license; and

11 (29) "Special faculty license" means a license to practice medicine that is limited to the
12 extent that this practice is incidental to a necessary part of the practitioner's
13 academic appointment at an accredited medical school program or osteopathic
14 school program and any affiliated institution for which the medical school or
15 osteopathic school has assumed direct responsibility.

16 ➔Section 10. Sections 1 to 7 of this Act are intended to be consistent with the
17 United States Midwifery Education, Regulation, and Association statement on the
18 licensure of certified professional midwives, July 2015.